



REPRODUCTIVE HEALTH AND EQUITY Fact Sheet

Attempts to Restrict Ballot Initiatives That Protect Abortion Access

Introduction

In its 2022 decision in [Dobbs](#), the Supreme Court held that the federal constitution does not protect access to abortion. As a result, advocates on both sides of the abortion issue turned to state constitutions to determine the contours of a right to abortion or to make clear no such right exists under state law. When abortion was on the ballot in 2022, voters rallied to enshrine the right to abortion in state constitutions and rejected attempts to further restrict abortions in their states. Abortion rights advocates won in [Vermont](#), [Kentucky](#), and [Kansas](#) among many others. (The Network for Public Health Law examined previous and forthcoming ballot measures on abortion access [here](#).)

In the wake of the success of these ballot measures, state legislators throughout the country have sought to amend ballot initiative processes ahead of the 2024 elections. While few legislators and officials have openly stated that the proposed amendments are intended to thwart pro-abortion ballot initiatives, some have. Whether the amendments are intended to target pro-abortion ballot initiatives directly, they have that effect. Five states have recently attempted to restrict the ability of constituents to use ballot initiatives with varying degrees of success: Ohio, Mississippi, Florida, Arkansas, and Missouri.

Ohio

In Ohio, abortion is currently legal up to 22 weeks of gestation, but the state's supreme court will soon [decide](#) the fate of a six-week ban. If the ban is upheld, advocates may seek change to the Ohio Constitution; opponents are aware of this possibility. On August 8, 2023, Ohio voters [rejected](#) Issue 1 which would have required 60 percent voter approval of any proposed constitutional amendment as well as wider support for such amendments within the state. The ballot initiative would also have [eliminated any curing period](#) that currently exists in law, giving organizers a second chance to meet the required number of signatures. Currently, Ohio law requires only a [simple majority](#) of voters to pass a constitutional amendment. State Representative Brian Stewart, prime sponsor of the resolution, noted in a letter to fellow Ohio Republicans that his motivation behind introducing such changes was to thwart attempts to "[write abortion on demand into Ohio's Constitution](#)." Issue 1 was defeated by [57 percent](#) of the vote.



Mississippi

Mississippi only permits abortions to [preserve the life of the mother or in cases of rape](#). Securing protection through a ballot initiative may not be an available strategy. Mississippi currently does not permit ballot measures because the state supreme court struck down the state's ballot measure law as "[unworkable and inoperative](#)." In January 2023, Mississippi Senate Concurrent Resolution 533 sought to re-introduce ballot initiatives. During consideration of the Resolution, the House added an amendment specifying that the proposed ballot initiative process could not be used "[\[t\]o propose any new law or amend or repeal any existing law relating to abortion](#)." The bill [died in the state senate](#) without a vote.

Florida

The status of abortion in Florida is in a constant state of flux. The state's 15-week ban is currently being challenged in court. If the Court upholds the constitutionality of the ban, a six-week ban will be [implemented](#). Signatures are being collected throughout Florida to bring to the ballot a constitutional amendment [protecting access to abortion](#) and an amendment to protect the lives of the "preborn." Currently in Florida, 60 percent of voters must approve an amendment or revision to the state's constitution. In January 2023, lawmakers in Florida [introduced a bill to](#) increase that percentage to 2/3 of voters. The bill died in the state senate.

Missouri

While abortion is illegal in the state, Missouri courts are currently deciding the fate, and wording of, pro-abortion ballot initiatives. In July 2023, the state supreme court sided with the State Auditor against the Attorney General, [mandating](#) that the Attorney General approve the Auditor's fiscal impact statements on multiple ballot initiatives, allowing them to move to forward in the process. Although the case centered on abortion-related ballot questions, the word "abortion" is absent from the decision. Recently, the Secretary of State came under fire for crafting titles for petitions seeking to add protection for abortion to the state constitution that are biased against the protections. On September 25, 2023, a judge "[rewrote the ballot titles for six initiative petitions seeking to enshrine the right to abortion in the Missouri Constitution, ruling that 13 phrases in the summaries written by Secretary of State Jay Ashcroft are 'argumentative' or unfairly biased](#)." The Secretary of State has vowed to appeal the September ruling which could hamper organizers' ability to collect signatures ahead of deadlines for the 2024 election.

Arkansas

Arkansas "[has one of the nation's strictest abortion bans](#)" and, on March 7, 2023, Arkansas Governor Sarah Huckabee Sanders signed Act 236 into law which would diminish organizers' ability to introduce ballot initiatives. Act 236 "[raises the number of counties where a minimum number of signatures from registered voters must be submitted from 15 to 50](#)." There are 75 counties in Arkansas. The Act moved quickly through the Arkansas legislature, going from filed to signed in under one month. However, a lawsuit was soon filed against the Arkansas Secretary of State by a Republican State Senator and a chapter of the League of Women Voters seeking to [invalidate](#) the new requirements as they conflict with the Arkansas constitution. The litigation is ongoing.



Looking Forward

For five decades, the federal constitution served to protect the right to abortion; that changed with *Dobbs*. Now advocates look to embed abortion access in state statutes and constitutions. The majority of American support a right to abortion; that holds true even in some conservative states. To fend off ballot initiatives that would protect abortion access, some opponents are proposing higher hurdles for ballot access. The Network will continue to track these ballot initiatives and the reactive proposed changes to ballot access.

This document was developed by Joanna S. Suder, J.D., Senior Attorney, Reproductive Health, and reviewed by Kathleen Hoke, Eastern Region Office Director, Network for Public Health Law.

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Updated: October 4, 2023

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Support for the Network provided by the Kresge Foundation. The views expressed in this document do not necessarily reflect the views of the Foundation.

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